

## TEXAS TRANSPORTATION COMMISSION

SMITH County

### MINUTE ORDER

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TYLER District

The Texas Department of Transportation (department) and the North East Texas Regional Mobility Authority (NETRMA) have been proceeding with the development of the Toll 49 facility in Smith County, a project under the jurisdictional limits of the NETRMA.

The project is consistent with the Statewide Transportation Plan (Plan) and the Metropolitan Transportation Plan of the Tyler Metropolitan Planning Organization, and is listed in the FY 2008-2011 Statewide Transportation Improvement Program (STIP).

The project is the development and construction of Segment 3B of Toll 49 from SH 31 north to I-20. The proposed 10-mile toll facility includes two lanes of an ultimate four-lane toll road, with a connection to the existing Toll 49 facility at SH 31, and ramps connecting to I-20. The project is located within the boundaries of the NETRMA, and is subject to the market valuation and primacy requirements of Transportation Code, §228.0111. Pursuant to Transportation Code, §228.0111, the NETRMA has exercised its option to develop, construct, and operate the project.

Transportation Code, §370.301 authorizes the department to provide for or contribute to the payment of costs of the design, financing, construction, operation, or maintenance of a turnpike project by a regional mobility authority (RMA) on terms agreed to by the department and the RMA. Transportation Code, §222.103 authorizes the department to participate, by spending money from any available source, in the acquisition, construction, maintenance, or operation of a toll facility of a public or private entity on terms and conditions established by the Texas Transportation Commission (commission).

Pursuant to Transportation Code, §222.103, the commission adopted Title 43, Texas Administrative Code, §§27.50-27.58 (toll equity rules) to prescribe conditions for the commission's financing of a toll facility of a public or private entity.

In accordance with Section 27.53 of the toll equity rules, the NETRMA has submitted a request for financial assistance in the amount of up to \$90 million to pay for the development and construction of Segment 3B of Toll 49. The financial assistance would be in the form of a loan.

As required by Section 27.53, on December 1, 2009, the NETRMA Board of Directors passed a resolution adopting an ethics and internal compliance program that addresses standards of conduct for the NETRMA officers and employees. These policies meet the requirements set forth in 43 TAC §1.8.

Section 27.53(d) authorizes the executive director of the department to waive submission of individual items of information or data required by Section 27.53(c) if: (1) the information or data required by this section is not relevant to the project or the financial assistance requested; (2) the department already possesses information or data in a format that may be substituted for the required information or data; or (3) the past performance of the requestor on previous projects developed in collaboration with the department indicates that the requestor will adequately and prudently address the issues and impacts described in the requested information or data.

Information and data required by Section 27.53(b) is either contained in the request for financing or is already in the department's possession. Supplemental information and data required by Section 27.53(c) is contained in the request for financial assistance and is already in the department's possession, or is waived under Section 27.53(d).

TEXAS TRANSPORTATION COMMISSION

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The NETRMA has committed that the project will comply with all applicable environmental laws, and has committed that the NETRMA will assume all liability and responsibility for identifying and securing all federal and state environmental permits, issues, commitments, and approvals necessary for the development of the project.

The completion of the project will benefit the state and the traveling public and improve the efficiency of the state's transportation system by enhancing local and regional mobility, decreasing congestion, increasing safety, increasing economic development opportunities, decreasing travel time, decreasing air pollution, providing reliable travel speeds for users and improved access for emergency response, and enhancing operational efficiency and quality of life in the project corridor and the regional transportation system.

The financial assistance will enhance the ability of the project to go forward as a toll facility, improving the efficiency of the state transportation system, and potentially expanding the availability of funding for transportation projects or reducing direct state costs. Without the financial assistance, the timeline to complete the project and realize the benefits described above could be indefinitely delayed.

NOW, THEREFORE, IT IS DETERMINED that the request for financial assistance submitted by the North East Texas Regional Mobility Authority meets the applicable requirements of 43 TAC §27.53 and §27.54(a) and, in accordance with those provisions, the commission grants preliminary approval of the request for financing in the amount of up to \$90 million, in the form of a loan, to be used for the purposes described herein, and directs the executive director to implement the actions authorized and required by those and other applicable toll equity rule provisions.

Submitted and reviewed by:

  
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Director, Finance Division

Recommended by:

  
\_\_\_\_\_  
Executive Director

**112476 OCT 28 10**

Minute  
Number

Date  
Passed

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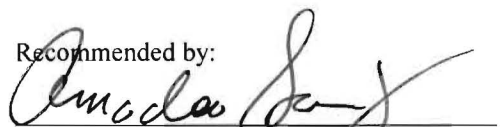
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